

1 Wright Marsh & Levy
2 Richard A. Wright, Esq.
3 Nevada Bar No. 886
4 Sunethra Muralidhara, Esq.
5 Nevada Bar No. 13549
6 300 S. Fourth Street, Suite 701
7 Las Vegas, NV 89101
8 Phone: (702) 382-4004
9 Fax: (702) 382-4800
10 rick@wmllawlv.com
11 smuralidhara@wmllawlv.com

12 Attorneys for Kelvin Atkinson

13 United States District Court

14 District of Nevada

15 United States of America,

16 Plaintiff,

17 v.

18 Kelvin Atkinson,

19 Defendant.

20 Case No. 2:19-cr-00055-JCM-CWH

21 **Stipulation to Modify Conditions of**
Supervision

22 (First Request)

23 IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A. Trutanich, United States Attorney, and Daniel R. Schiess, Assistant United States Attorney, counsel for the United States of America, and Richard A. Wright, and Sunethra Muralidhara, of Wright Marsh & Levy, counsel for Kelvin Atkinson that the conditions of his supervisions be modified to suspend the mandatory condition of drug testing because Mr. Atkinson poses a low risk of future substance abuse. The government agrees with this request. United States Probation Officer Donnette Johnson agrees with this request.

24 This Stipulation is entered into for the following reasons:

- 25 1. Defendant was sentenced on July 18, 2019 to 27 months in custody. ECF 20.
- 26 2. The Judgment of Conviction reflects imposition of the mandatory drug testing condition. All parties are now in agreement that the condition is unnecessary. ECF 21.

1 3. On March 27, 2020, Mr. Atkinson filed an emergency motion to modify
2 sentence under seal. ECF 28. The basis of this motion was Mr. Atkinson's severe medical
3 condition and how the novel COVID-19 virus could have significant adverse effects on Mr.
4 Atkinson's health if contracted. The parties fully briefed the issues. ECF 30, 31, 32, 34, 35,
5 36, 38. The government opposed Mr. Atkinson's motion to modify sentence. On April 17,
6 2020, this Court granted Mr. Atkinson's motion, modified his sentence to time served, and
7 ordered the BOP release him within 72-hours of said Order. ECF 39.

8 4. Mr. Atkinson was timely released from custody and has started his 3-year term
9 of supervision. He satisfied his requirement of checking in with United States Probation Officer
10 Johnson within 72-hours of release.

11 5. USPO Johnson has reviewed Mr. Atkinson's case and agrees with counsel for
12 the defense that mandatory drug testing may not be necessary given Mr. Atkinson's low risk of
13 recidivism, low-risk of future substance abuse, zero criminal history points, and lack of
14 substance abuse history.

15 6. The government has reviewed Mr. Atkinson's case and agrees that drug testing
16 may not be necessary given Mr. Atkinson's lack of known significant drug history.

17 7. Based on this common agreement that Mr. Atkinson has a lack of known
18 significant drug history, all parties now agree that this condition is not necessary.

19 8. Mr. Atkinson does not object to this request.

20 //
21 //
22 //
23 //
24 //
25 //
26 //

1 9. All other conditions of supervision as stated in the judgment of conviction and
2 any previous court orders will remain in effect. ECF 21, 39.

3 DATED April 24, 2020.
4
5

WRIGHT MARSH & LEVY

NICHOLAS A. TRUTANICH
United States Attorney

By: /s/ Richard A. Wright
Richard A. Wright
Sunethra Muralidhara
Attorneys for Mr. Atkinson

By: /s/ Daniel R. Schiess
Daniel R. Schiess
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

United States of America,

Case No. 2:19-cr-00055-JCM-CWH

Plaintiff,

V.

Kelvin Atkinson,

Defendant.

ORDER

Pursuant to the Stipulation of the Parties and for good cause appearing:

IT IS ORDERED that the Court shall suspend the mandatory drug testing condition because Mr. Atkinson poses a low risk of future substance abuse, poses a low risk of recidivism, has zero criminal history points, and lacks a substance abuse history. All other conditions of supervision will remain in effect in accordance with the Judgment of Conviction and all other previous Orders from this Court.

DATED April 27, 2020.

James C. Maran
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT JUDGE